

FIR No.512/20
PS. Laxmi Nagar

18.07.2020

Present: Sh. V. K. Singh, Ld. Counsel for applicant (through video conferencing).

Vide this order, I shall dispose of the application moved by applicant for release of vehicle bearing No. DL-3SDR-4430.

In view of the order passed by Ld. District & Sessions Judge, East District, Karkardooma Courts, Delhi issued in wake of COVID-19 Pandemic, the abovesaid application has been placed before the undersigned to be heard through Video Conferencing using CISCO WEBEX application.

Link was sent to the Ld. APP for the Stat and Ld. counsel for the applicant for a conference call scheduled for 11.45 a.m today.

Reply to the application has been filed by the IO. Perused. As per the reply, the IO has not objected to the application stating that the vehicle is not required by the police.

Heard on the application for releasing the vehicle i.e. DL-3SDR-4430 to the applicant/owner. Photocopy of RC of the vehicle and the insurance papers of the vehicle in question in the name of the applicant/owner have been filed. Considering the same, in view of the judgment of **Hon'ble High Court of Delhi titled as "Manjit Singh vs. State in Criminal MC No. 4485/13 dated 10.09.2014** , the said vehicle in question is released to the owner subject to following conditions:-

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1. IO is directed to release the vehicle to the applicant after preparing a detailed panchnama, taking photographs of the vehicle and valuation report.
2. The photographs of the vehicle should be attested and counter signed by the complainant, accused as well as by the person to whom the custody is handed over.
3. Applicant is directed to furnish indemnity bond as per valuation of vehicle bearing no. DL-3SDR-4430 before IO/SHO concerned.
4. The investigation officer shall keep on record the permanent address and phone number of the applicant, his identity proof and address proof and shall release the vehicle after verifying the ownership of the applicant and insurance of the vehicle.
5. Owner of the vehicle is further directed to intimate the Court and also to concerned IO, in case he is willing to dispose of the vehicle.
6. In case of applicant changing his address, he shall inform the IO regarding the same vide a written intimation.
7. IO is directed to file panchnama and photographs of the vehicle in question alongwith negatives/CD and valuation report with the final report.

Copy of this order be sent to Ld. Counsel for applicant through electronic mode.

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MM-04/East/KKD/Delhi/18.07.2020

FIR No.378/19

PS. YDM

Applicant: Sarthan

18.07.2020

Present: Ld. APP for the State (through video conferencing).
Sh. Gaurav Sharma, Ld. Counsel for applicant/accused (through video conferencing).

Vide this order, I shall dispose of the application moved by applicant/accused Sarthan, seeking bail.

In view of the order passed by Ld. District & Sessions Judge, East District, Karkardooma Courts, Delhi issued in wake of COVID-19 Pandemic, the said application has been placed before the undersigned to be heard through Video Conferencing using CISCO WEBEX application.

Link was sent to the Ld. APP for the State and Ld. counsel for the applicant for a conference call scheduled for 12.00 noon today.

Reply filed by the IO. Same is perused.

Arguments on the bail application heard on behalf of both the parties.

It is submitted by Ld. Counsel for the accused that accused has been falsely implicated in the present case and he is in JC since 06.01.2020. It is further stated that investigation in the present case has been completed. It is prayed that accused is the only bread earner of his family and that considering the prevailing situation on account of COVID-19 pandemic, the accused be granted bail in the present case as he is ready to abide by all terms and condition to be imposed upon him and ready to furnish a local surety, if he is

378/19

granted bail.

As per reply, IO vehemently opposed the bail application.

Considering the fact that accused is in JC since 06.01.2020 and charge-sheet has already been filed, therefore, no useful purpose would be served to keep him behind the bar.

Hence, unless required in any other case, accused Sarthan is admitted to bail on furnishing personal and surety bond in sum of Rs. 20,000/- each with one local surety subject to the following conditions:

1. That he shall not indulge in commission of any similar or other offence upon his release;
2. That he shall not tamper with the evidence in any manner;
3. That he shall not make any inducement, threat or promise to any witness(es) involved in case;
4. That he shall furnish his complete residential address and intimate the Court if and when there is any change thereto;
5. That he shall appear before the Court/IO if and when called upon.

The application stands disposed of.

Copy of this order be sent to the Jail Superintendent concerned and Ld. Counsel for applicant/accused through electronic mode.

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MM-04/East/KKD/Delhi/18.07.2020

FIR No.378/19

PS. YDM

Applicant: Danish

18.07.2020

Present: Ld. APP for the State (through video conferencing).
Sh. Gaurav Sharma, Ld. Counsel for applicant/accused (through video conferencing).

Vide this order, I shall dispose of the application moved by applicant/accused Danish, seeking bail.

In view of the order passed by Ld. District & Sessions Judge, East District, Karkardooma Courts, Delhi issued in wake of COVID-19 Pandemic, the said application has been placed before the undersigned to be heard through Video Conferencing using CISCO WEBEX application.

Link was sent to the Ld. APP for the State and Ld. counsel for the applicant for a conference call scheduled for 12.00 noon today.

Reply filed by the IO. Same is perused.

Arguments on the bail application heard on behalf of both the parties.

It is submitted by Ld. Counsel for the accused that accused has been falsely implicated in the present case and he is in JC since 06.01.2020. It is further stated that investigation in the present case has been completed. It is prayed that accused is the only bread earner of his family and that considering the prevailing situation on account of COVID-19 pandemic, the accused be granted bail in the present case as he is ready to abide by all terms and condition to be imposed upon him and ready to furnish a local surety, if he is

granted bail.

As per reply, IO vehemently opposed the bail application.

Considering the fact that accused is in JC since 06.01.2020 and charge-sheet has already been filed, therefore, no useful purpose would be served to keep him behind the bar.

Hence, unless required in any other case, accused Danish is admitted to bail on furnishing personal and surety bond in sum of Rs. 20,000/- each with one local surety subject to the following conditions:

1. That he shall not indulge in commission of any similar or other offence upon his release;
2. That he shall not tamper with the evidence in any manner;
3. That he shall not make any inducement, threat or promise to any witness(es) involved in case;
4. That he shall furnish his complete residential address and intimate the Court if and when there is any change thereto;
5. That he shall appear before the Court/IO if and when called upon.

The application stands disposed of.

Copy of this order be sent to the Jail Superintendent concerned and Ld. Counsel for applicant/accused through electronic mode.

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MM-04/East/KKD/Delhi/18.07.2020

FIR No.227/19

PS. Laxmi Nagar

Applicant: Kayum

18.07.2020

Present: Ld. APP for the State (through video conferencing).
Sh. Mohit Bhardwaj, Ld. Counsel for accused/applicant Kayum
(through video conferencing).

Vide this order, I shall dispose of the application moved by accused Kayum, seeking bail.

In view of the order passed by Ld. District & Sessions Judge, East District, Karkardooma Courts, Delhi issued in wake of COVID-19 Pandemic, the bail application has been placed before the undersigned to be heard through Video Conferencing using CISCO WEBEX application.

Link was sent to the Ld. APP for the State and Ld. counsel for the applicant for a conference call scheduled for 12.30 p.m today.

Reply filed by the IO. Same is perused.

Arguments on the bail application heard on behalf of both the parties.

It is submitted by Ld. Counsel for the accused that accused has been falsely implicated in the present case and he is in JC since long time. It is further stated that nothing has been recovered from the possession of accused and that accused is the only bread earner of his family. It is further stated that he has already been granted bail by the concerned Courts in other cases. It is further prayed that considering the prevailing situation on account of COVID-19 pandemic, the accused be granted bail in the present case as he is ready to abide by all terms and condition to be imposed upon him, if he is granted bail.

On the other hand, the application has been vehemently opposed by Ld. APP for the state stating that accused was arrested in FIR No. 330/19 and during the course of investigation, accused disclosed commission of offence in the present case and thereafter, recovery was affected. He further stated that accused is a habitual offender and he may tamper or hamper the evidence and jump the bail.

The court is mindful of the fact that as a general rule it is a bail not the jail which is the right of the accused. However, the right of the accused must be balanced with the general interest of the society and the fairness of investigation and the possibility of the witness tempering with the evidence. The apprehension of threat to witnesses and the possibility of the accused fleeing the process of law, are factors which cannot be ignored.

Other considerations to be kept in mind while deciding the bail application are:

- (i) The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence.
- (ii) Reasonable apprehension of tempering with the witness or apprehension of threat to the complainant.
- (iii) Prima facie satisfaction of the court in support of the charge (*Ram Govind Upadhyay Vs. Sudarshan Singh (2002) 3 SCC 598.*

Further it has been held in a number of cases including *Rajesh Rajan Yadav @ Pappu Yadav Vs. CBI through its Director (2007) 1 SCC 70* and *Ash Mohammad Vs. Shiv Raj Singh @ Lallu Babu and Anr. (2012) 9 SCC 446.*

That though the period of custody is a relevant factor, the same has to be weighed simultaneously with the totality of circumstances and the criminal antecedents.

In *ChandraKshwas Prasad @ Chandu babu Vs. State of Bihar and Anr.* It was held by Hon'ble Supreme Court of India as under:

“10. Although it has to be accepted that the respondent/accused has already been granted bail by the concerned Courts in other cases, a duty is cast upon the Court in addressing such a prayer in a case on its own merit and while applying its discretion, it must be applied in a judicial manner and not as a matter of course.”

In the case in hand, accused was involved in other criminal activities of similar nature and the allegations against the applicant/accused are grave and serious. Therefore, there is every likelihood that the accused may temper with the prosecution's evidence if released on bail and the possibility of accused fleeing from the process of law cannot be ruled out. Hence, I do not find any merit in the present application of the applicant/accused. Accordingly, the present bail application of the applicant/accused Kayum is hereby **dismissed**.

Application is disposed of accordingly.

Copy of this order be also sent to Ld. Counsel for applicant through e-mail.

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MM-04/East/KKD/Delhi/18.07.2020

FIR No.202/19

PS. Laxmi Nagar

Applicant: Kayum

18.07.2020

Present: Ld. APP for the State (through video conferencing).

Sh. Mohit Bhardwaj, Ld. Counsel for accused/applicant Kayum
(through video conferencing).

Vide this order, I shall dispose of the application moved by accused Kayum, seeking bail.

In view of the order passed by Ld. District & Sessions Judge, East District, Karkardooma Courts, Delhi issued in wake of COVID-19 Pandemic, the bail application has been placed before the undersigned to be heard through Video Conferencing using CISCO WEBEX application.

Link was sent to the Ld. APP for the State and Ld. counsel for the applicant for a conference call scheduled for 12.30 p.m today.

Reply filed by the IO. Same is perused.

Arguments on the bail application heard on behalf of both the parties.

It is submitted by Ld. Counsel for the accused that accused has been falsely implicated in the present case and he is in JC since long time. It is further stated that nothing has been recovered from the possession of accused and that accused is the only bread earner of his family. It is further stated that he has already been granted bail by the concerned Courts in other cases. It is further prayed that considering the prevailing situation on account of COVID-19 pandemic, the accused be granted bail in the present case as he is ready to abide by all terms and condition to be imposed upon him, if he is granted bail.

On the other hand, the application has been vehemently opposed by Ld. APP for the state stating that accused was arrested in FIR No. 330/19 and during the course of investigation, accused disclosed commission of offence in the present case and thereafter, recovery was affected. He further stated that accused is a habitual offender and he may tamper or hamper the evidence and jump the bail.

The court is mindful of the fact that as a general rule it is a bail not the jail which is the right of the accused. However, the right of the accused must be balanced with the general interest of the society and the fairness of investigation and the possibility of the witness tempering with the evidence. The apprehension of threat to witnesses and the possibility of the accused fleeing the process of law, are factors which cannot be ignored.

Other considerations to be kept in mind while deciding the bail application are:

- (i) The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence.
- (ii) Reasonable apprehension of tempering with the witness or apprehension of threat to the complainant.
- (iii) Prima facie satisfaction of the court in support of the charge (***Ram Govind Upadhyay Vs. Sudarshan Singh (2002) 3 SCC 598.***)

Further it has been held in a number of cases including ***Rajesh Rajan Yadav @ Pappu Yadav Vs. CBI through its Director (2007) 1 SCC 70 and Ash Mohammad Vs. Shiv Raj Singh @ Lallu Babu and Anr. (2012) 9 SCC 446.***

That though the period of custody is a relevant factor, the same has to be weighed simultaneously with the totality of circumstances and the criminal antecedents.

In *ChandraKshwas Prasad @ Chandu babu Vs. State of Bihar and Anr.* It was held by Hon'ble Supreme Court of India as under:

"10. Although it has to be accepted that the respondent/accused has already been granted bail by the concerned Courts in other cases, a duty is cast upon the Court in addressing such a prayer in a case on its own merit and while applying its discretion, it must be applied in a judicial manner and not as a matter of course."

In the case in hand, accused was involved in other criminal activities of similar nature and the allegations against the applicant/accused are grave and serious. Therefore, there is every likelihood that the accused may temper with the prosecution's evidence if released on bail and the possibility of accused fleeing from the process of law cannot be ruled out. Hence, I do not find any merit in the present application of the applicant/accused. Accordingly, the present bail application of the applicant/accused Kayum is hereby **dismissed**.

Application is disposed of accordingly.

Copy of this order be also sent to Ld. Counsel for applicant through e-mail.

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Date: 2020.07.18
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MM-04/East/KKD/Delhi/18.07.2020